

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE  
SOUTHERN DISTRICT OF GEORGIA  
Dublin Division

In the matter of:	)	
	)	Chapter 13 Case
BOBBY LEE DARSEY	)	
SS# 258-90-6386	)	Number <u>386-00171</u>
ESTELLA MAE SHAY DARSEY	)	
SS# 255-11-5947	)	
Route 2, Box 253-B	)	
Soperton, Georgia 30457	)	
Atty., H. G. Bozeman	)	
	)	
Debtors	)	

**ORDER DISMISSING CHAPTER 13 CASE BEFORE CONFIRMATION**

Pursuant to 11 U.S.C. Section 1307 this Chapter 13 case must be dismissed due to Debtors' request.

During the pendency of this case, each secured creditor who was to receive payments from the Chapter 13 Trustee under the terms of the Debtor's proposed plan has received no payment. The Chapter 13 Trustee has accumulated payments made to him by the Debtor pending confirmation of a Chapter 13 plan. 11 U.S.C. §1326(a). Each secured creditor's interest in its collateral has been impaired to the extent that it has received no payment and has been prevented from foreclosing its security interest by the automatic stay of 11 U.S.C. Section 362(a). In re American Mariner, Inc., 734 F.2d 426 (9th Cir., 1984).

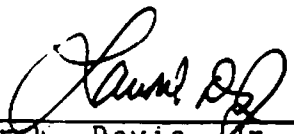
The Debtor has provided "adequate protection" to each secured creditor by making pre-confirmation payments to the Chapter 13 Trustee. In re Coplin, case #386-00886 (B.C. S.D. Ga., 1987); 11 U.S.C. §361(a). Upon confirmation of the Debtor's plan, these accumulated funds would have been distributed pro-rata to secured creditors to compensate them for the delay they have endured as a result of the automatic stay. Beacuse this case is being dismissed prior to confirmation of a plan, secured creditors will receive no payment on account of the plan; the "adequate protection" provided by the Debtor in the form of

payments to the Trustee has proved to be inadequate.

When "adequate protection" proves to be inadequate, each affected secured creditor is entitled to alternative compensation in the form of an administrative expense claim. 11 U.S.C. §507(b). They are entitled to pro-rata satisfaction of those claims out of the monies which the Debtor has paid to the Trustee. 11 U.S.C. §1326(a)(2).

IT IS THEREFORE THE ORDER OF THIS COURT:

- 1) That this Chapter 13 case is dismissed;
- 2) That after deducting the costs of administration, the Trustee shall pay the funds remaining in this case pro-rata to creditors holding allowed secured claims which were to be paid through the Trustee under the terms of the Debtor's unconfirmed plan, unless a party in interest files a written objection within ten (10) days from the date of this Order.

  
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Lamar W. Davis, Jr.  
United States Bankruptcy Judge

Dated at Savannah, Georgia

This 5th day of June, 1987.